

AMENDED AND RESTATED
REQUEST FOR QUALIFICATIONS
FOR
SPECIAL COUNSEL

Dated: ~~July 14, 2009~~
August 31, 2009



California Infrastructure and Economic Development Bank
980 9th Street, 9th Floor
Sacramento, CA 95814

Responses shall be submitted via electronic mail (email) to ibank@ibank.ca.gov
no later than
3:00 p.m. (Pacific Daylight Time)
~~August 5, 2009~~
September 21, 2009

AMENDED AND RESTATED

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

REQUEST FOR QUALIFICATIONS

FOR

SPECIAL COUNSEL

Dated: ~~July 14, 2009~~

August 31, 2009

Dear Interested Firms:

At the request of the California Infrastructure and Economic Development Bank (I-Bank) Board, the previously issued Request for Qualifications for Special Counsel is being issued with several amendments. The I-Bank is extending the date to respond to its solicitation of request for qualifications to September 21, 2009, to allow interested firms to submit a proposal or to augment a previously proposal submitted.

Firms that previously submitted a proposal under the prior RFQ are not required to resubmit a new proposal, but may at their discretion submit amendments to the proposal or submit an entirely new proposal subject to the requirements and timelines in this Amended and Restated RFQ. **FIRMS DESIRING THE I-BANK TO CONSIDER A PREVIOUSLY SUBMITTED PROPOSAL MUST SUBMIT, AT A MINIMUM, THE APPROPRIATE CERTIFICATION (AND ANY APPLICABLE AMENDMENTS) AS OUTLINED IN SECTION VII. SUBMISSION REQUIREMENTS, SUBSECTION M. CERTIFICATION OF THIS RFQ BY THE DEADLINE DATE IN THIS RFQ.**

Changes to the previously issued Request for Qualifications are marked as follows:

- ~~Eliminations~~
- Additions

I. INTRODUCTION

The California Infrastructure and Economic Development Bank (I-Bank) is requesting statements of qualifications from Firms (as defined herein) interested in serving as special counsel to the I-Bank. The I-Bank intends to enter into three-year agreements with two or more selected Firms as described in this Amended and Restated Request for Qualifications (RFQ). The I-Bank reserves the right to extend the term of any contract entered into as a result of a selection made pursuant to this RFQ for up to two additional years, subject to the satisfactory negotiation of terms acceptable to both the I-Bank and the contracting Firm, including compensation. The scope of services the I-Bank wishes to contract for and the information to be submitted in response to this RFQ are set forth herein.

As used in this RFQ, the term “Firm” means either (a) a corporation, limited liability corporation, partnership or limited liability partnership or other legal entity operating as a law firm or (b) a team of such legal entities or individual lawyers submitting a joint response to this RFQ and willing to jointly enter into a contract with the I-Bank. Any team of legal entities applying as a Firm should provide information in response to each submittal requirement of the RFQ from each separate entity comprising the Firm.

II. SCOPE OF WORK TO BE PERFORMED

The I-Bank is seeking to contract with two or more Firms to act as special counsel for the I-Bank. The selected Firms will be paid on an hourly basis to provide one or more of the following legal services, upon the request of the I-Bank’s Contract Manager:

- Advice related to structuring and securing governmental bond financings and governmental bond-financed programs, including advice on state public finance law and federal securities and tax law issues that arise in relation to the I-Bank’s current governmental financing programs, which are the Infrastructure State Revolving Fund (ISRF) Program, the Public Agency Revenue Bond Program and the State School Fund Apportionment Lease Revenue Bond Program (see Section V. - DESCRIPTION OF THE I-BANK PROGRAMS for information about these programs), and in relation to new governmental bond-financed programs considered or undertaken by the I-Bank.
- Advice related to structuring and securing private activity conduit revenue bond transactions considered or undertaken by the I-Bank under its Industrial Development Revenue Bond Program, Exempt Facility Revenue Bond Program and 501(c)(3) Revenue Bond Program (see Section V. – DESCRIPTION OF THE I-BANK PROGRAMS for information about these programs).
- Advice related to the I-Bank’s duties or proposed duties as the agent for the State of California in relation to the sale and securitization of State of California assets, such as the sale of tobacco assets to the Golden State Tobacco Securitization Corporation.
- Advice to and representation of the I-Bank in the event of an Internal Revenue Service compliance check of I-Bank programs or practices, or review or audit of bonds issued by the I-Bank.
- Other advice or legal work related to a varied and wide spectrum of taxable and tax-exempt bonds and financings conducted by the I-Bank.

Advice requests may be in the form of requests to answer specific legal questions, to review and comment upon financing-related agreements, or to negotiate and draft financing-related agreements.

III. SELECTION OF TWO OR MORE FIRMS

It is expected that two or more Firms will be selected as special counsel based on the process established in this RFQ.

Any Firm that enters into a contract with the I-Bank may be requested, from time to time, to provide services pursuant to the terms of the contract when the Contract Manager (as identified herein) determines that the Firm is best suited to provide the services being requested. The Contract Manager will make that determination based on a combination of all of the following:

- The availability of the Firm to provide the requested services, which determination will take into account any client conflicts of interest the Firm may have;
- The suitability of the Firm to provide the requested services, which determination will take into account the Firm's experience either with the I-Bank program for which services are being sought or similar programs; and
- The hourly rate charged by each Firm.

Currently, the I-Bank contracts with Stradling Yocca Carlson & Rauth, Orrick, Herrington and Sutcliffe, LLP, and Hawkins Delafield & Wood, LLP to provide legal services similar to the services sought pursuant to this RFQ. These contracts expire in September of this year. The I-Bank reserves the right to select one or more of the Firms currently under contract pursuant to this RFQ. However, it is the policy of the I-Bank to periodically review all services contracts in order to confirm that services are provided to the I-Bank in a combination of the most efficient and cost-effective manner. Because of the wide variety of financings undertaken by the I-Bank, the selected Firms will be those with the broadest demonstrated expertise within all areas of tax-exempt and taxable governmental bond financing (with the exception of housing).

IV. MINIMUM QUALIFICATIONS

- A. The Firm must be on the State Treasurer's Office Bond Counsel Pool as of ~~the final date to respond to this RFQ~~ September 21, 2009. When one or more persons or entities constitute the "Firm," all such persons or entities must meet this criteria, except as set forth in Subsection C. below.
- B. The Firm must provide satisfactory responses, as determined by the I-Bank, to Section VII. – SUBMISSION REQUIREMENTS, Subsection H. Legal Proceedings, of this RFQ.
- C. The Firm must include a minimum of one attorney assigned to the assignment who is nationally recognized as a practitioner in the area of Sections 103 and 140-150 of the Internal Revenue Code. The attorney or legal entity that provides this expertise is not required to meet the requirement of Subsection A. above.

- D. The Firm must possess sufficient staffing, financial and physical resources to perform the scope of services of this RFQ within a reasonable response time.
- E. The assigned lead attorney must be based in California and must be an active member of the State Bar of California with experience in California tax-exempt finance. This person must be accessible to the I-Bank by an electronic e-mail device such as a Blackberry or similar mobile device.
- F. The Firm must be willing to enter into an agreement with the I-Bank consistent with the Agreement General Terms and Conditions contained in Attachment A.
- G. The Firm's proposal to this RFQ must be signed by an individual authorized to bind the Firm and contain the certification required in Section VII. – SUBMISSION REQUIREMENTS, Subsection M, Certification, of this RFQ.

V. DESCRIPTION OF THE I-BANK PROGRAMS

- A. **I-Bank Background.** The I-Bank was created in 1994 by the Bergeson-Peace Infrastructure and Economic Development Bank Act (Act) to provide the State of California (State) with an entity that has broad powers to finance a wide array of public development facilities and economic development facilities. The Act, as amended from time to time, provides the I-Bank with authority to, among other things, issue revenue bonds, make loans, provide credit enhancements, acquire and lease property and leverage State and Federal funds.

The I-Bank is governed by a five-member board of directors (Board) that consists of the Secretary of the Business, Transportation and Housing Agency, who serves as the chair, the State Treasurer, the Director of the State Department of Finance, the Secretary of the State and Consumer Services Agency, and an appointee of the Governor.

The I-Bank's primary programs currently include:

- *Infrastructure State Revolving Fund (ISRF) Program* (provides low-cost financing to local agencies for public infrastructure projects);
- *Industrial Development Revenue Bond Program (IDB Program)* (provides tax-exempt revenue bond financing for eligible small- to mid-size manufacturing companies);
- *Exempt Facility Revenue Bond Program* (provides tax-exempt revenue bond financing for certain IRS-approved activities);
- *501(c)(3) Revenue Bond Program* (provides tax-exempt revenue bond financing for certain nonprofit public benefit corporations);
- *State School Fund Apportionment Lease Revenue Bond Program* (provides tax-exempt revenue bond financing for school districts needing emergency apportionment loans as authorized by the State);

- *Public Agency Revenue Bond Program* (provides tax-exempt revenue bond financing for governmental entities, including the I-Bank for the purpose of funding its ISRF Program); and,
- *Other Tax-Exempt Revenue Bonds* (this category captures I-Bank bonds that do not meet the criteria of any of the five revenue bond programs listed above).

The IDB Program, the Exempt Facility Revenue Bond Program, the 501(c)(3) Revenue Bond Program, the State School Fund Apportionment Lease Revenue Bond Program, the Public Agency Revenue Bond Program and Other Tax-Exempt Revenue Bonds are collectively referred to as the Bond Financing Programs.

- B. **Infrastructure State Revolving Fund (ISRF) Program.** The ISRF Program is a statewide program that provides low-cost, long-term loans¹ up to \$10 million per project for sixteen statutorily designated categories of public infrastructure. ISRF Program eligible applicants include local government entities such as cities, counties, redevelopment agencies, special districts, assessment districts and joint powers authorities.

The ISRF Program was originally funded from State General Fund appropriations of \$50 million in the 1998/1999 State Budget and \$425 million in the 1999/2000 State Budget. Of this amount, \$293 million was redirected back to the General Fund in the 2001/2002 and 2002/2003 State Budgets to assist the State in addressing its budget deficit, leaving a net of \$182 million plus interest earnings for the program. While the appropriated funds have been committed to ISRF Program borrowers, additional ISRF Program financing is available because of an innovative “leveraged loan program” structure which involves the issuance of tax-exempt revenue bonds secured by the repayments from previously-approved loans. To date, the I-Bank has issued three series of tax-exempt revenue bonds totaling \$152 million to provide additional funding for the ISRF Program (ISRF Program Bonds)². The ISRF Program Bonds are unenhanced and rated “AA+,” “Aa2,” and “AA+” by Fitch Ratings, Moody’s Investors Service and Standard & Poor’s, respectively. To date, the I-Bank Board has approved 92 outstanding ISRF Program loans totaling approximately \$401 million.

The ISRF Program Bonds are primarily secured by a pool of existing loans pledged to each series under a Series Indenture. The ISRF Program Bonds are further secured by collateral under a Master Indenture consisting of excess coverage from all outstanding parity series and any payments from remaining loans pledged to the Master Indenture. The I-Bank anticipates that it will issue additional series of ISRF Program Bonds within the next 12-18 months.

- C. **Bond Financing Programs.** Pursuant to its Bond Financing Programs, the I-Bank serves as an issuer of tax-exempt and taxable revenue bonds, the proceeds of which are loaned to and repaid by participating parties for the purpose of financing economic development

¹ The term “Loans” is generically used to mean loans, leases/leaseback agreements and installment sale agreements.

² \$51,370,000 of ISRF Program Bonds, Series 2004 issued on March 18, 2004; \$52,800,000 of ISRF Program Bonds, Series 2005 issued on December 14, 2005; and, \$48,375,000 of ISRF Program Bonds, Series 2008 issued on September 24, 2008.

facilities within California. Excluding the ISRF Program Bonds, which have been issued to leverage the ISRF Program, the I-Bank and the California Economic Development Financing Authority, a predecessor to the I-Bank³, have since 1995 served as the issuers for over \$5.1 billion of conduit revenue bonds under the Bond Financing Programs.

VI. CONTRACT TERM, CONTRACT SCOPE AND RFQ TIMELINE

- A. **Contract Term.** The I-Bank intends to select two or more Firms and to enter into an agreement for a term of three years with each of the selected Firms to serve as the I-Bank's special counsel providing services as described in this RFQ. The I-Bank anticipates a contract start date of no later than ~~October~~December 1, 2009.

The I-Bank reserves the right to extend the term of any contract entered into with a Firm chosen pursuant to this RFQ for up to two additional years subject to the satisfactory negotiation of terms for that two-year extension, including compensation, acceptable to both the I-Bank and the Firm.

- B. **Contract Scope.** The agreements awarded to Firms shall include all or a portion of the scope of work described in Section II. - SCOPE OF WORK TO BE PERFORMED and shall include the Agreement General Terms and Conditions contained in Attachment A.

- C. **RFQ Timeline.** The following is a list of key dates up to and including the date proposals are to be submitted

Event	Time (PDT)	Date
RFQ available to prospective bidders		7/14/09
Written questions to be sent via e-mail to ibank@ibank.ca.gov no later than	3:00pm	7/23/09
All questions received by the deadline and the written responses will be posted to the I-Bank's website at www.ibank.ca.gov by	5:00pm	7/31/09
Final date for submission of RFQ Proposal via e-mail to ibank@ibank.ca.gov by	3:00pm	8/5/09
Selection recommendation to the I-Bank Board projected to be on <i>(The I-Bank reserves the right to make a selection at a later meeting or to not make a selection at all.)</i>		8/25/09

³ In 1999, the I-Bank assumed the responsibilities, liabilities and obligations of the former California Economic Development Financing Authority.

<u>Event</u>	<u>Time (PDT)</u>	<u>Date</u>
<u>RFQ available to prospective firms</u>		<u>8/31/09</u>
<u>Final date for submission of RFQ Proposal via e-mail to ibank@ibank.ca.gov by</u>	<u>3:00pm</u>	<u>9/21/09</u>
<u>Selection recommendation to the I-Bank Board projected to be on</u> <u><i>(The I-Bank reserves the right to make a selection at a later meeting or to not make a selection at all.)</i></u>		<u>10/27/09</u>

VII. SUBMISSION REQUIREMENTS

Firms interested in providing services identified in this RFQ to the I-Bank are requested to submit the following information, in the order of sections and method specified below. Failure to answer all questions or provide the requested information asked in the RFQ may result in the proposal being deemed non-responsive. Please limit the total length of the response to 20 pages or less (without counting any cover page or a table of contents, but including counting the Executive Summary and any attachments). Firms submitting amendments to previously submitted proposals are limited to 2 additional pages of amendments. (Label and attach all submittals with the letter and title of each requirement below.)

A. Executive Summary

Provide an executive summary describing the highlights of the statement of qualifications in response to this RFQ (2-page maximum).

B. RFQ Contact Person

Provide the name, title, address, e-mail address, telephone and fax numbers of the person who will serve as the Firm's primary contact regarding this RFQ.

C. Minimum Qualifications

Discuss how the Firm meets the minimum qualifications described in Section IV. – MINIMUM QUALIFICATIONS.

D. Firm Overview/Experience

If the proposal is submitted as a joint response consisting of multiple entities or individuals, provide the requested information for each entity or individual.

1. Provide a brief description of the Firm and its organizational structure, including the location(s) of the office(s) in California from which the primary work on this agreement is to be performed.

2. Describe the staffing levels of the Firm's operations and explain any significant changes in staffing, if any, that have occurred during the previous three years.
3. Discuss whether there have been any significant developments in the Firm (e.g. changes in ownership, new business ventures) within the past three years and whether any changes are expected in the near future.
4. State whether the Firm is a certified small business, as established by the California Department of General Services.
5. Briefly describe the Firm's practice and areas of expertise related to tax-exempt bond financing other than housing.
6. Describe the Firm's experience serving as counsel for not more than ten (10) transactions for the issuance of tax-exempt obligations during the last thirty-six months. Include, at a minimum, the name of the bonds or other obligation issued, the name of the issuer, the sale date, the size of the issue, the role of the Firm, (e.g., lead bond counsel, co-bond counsel, disclosure counsel, special counsel, underwriter's counsel) and the staff identified in Section VII. – SUBMISSION REQUIREMENTS, Subsection E. who worked on each of the transactions).

E. Staff Qualifications

Provide brief resumes for each attorney and paralegal that will initially be assigned to provide the services identified in this RFQ. At a minimum, the resumes should cover the relevant experience and educational background, professional licenses, relevant recent training, and any specialized training, skills and background. The resumes may also include information regarding the individual's participation in State or national professional organizations, speaker or instructor roles in conferences or seminars or authorship of articles and books.

Attorneys and paralegals assigned to provide services to the I-Bank may be changed if they leave the Firm or are assigned to another office. These attorneys and paralegals may also be changed for other reasons with the express prior written permission of the I-Bank. However, in either case, the I-Bank retains the right to approve or reject replacements.

F. Commitment to Provide Special Counsel Services in the State

If the proposal is submitted as a joint response consisting of multiple firms or individuals, provide the requested information for each entity or individual.

Describe the Firm's commitment to provide the services identified in this RFQ in California. Include answers to the following questions in the response:

1. How many employees does the Firm have in California?

2. Has the Firm opened or closed offices in California or otherwise changed its operations within the State during the last three years?
3. What are the Firm's plans for its practice in California during the next three years?

G. Conflict of Interest

If the Firm is selected to provide the services identified in this RFQ, will the contract between the Firm and the I-Bank create any current or potential conflicts of interest between the Firm's obligations to the I-Bank and the Firm's obligations to other clients of the Firm? Should the Firm know of any existing or potential conflicts of interest, describe the nature of the conflict.

H. Legal Proceedings

Respond to the following questions regarding legal (including administrative) proceedings in connection with any offering of securities by a public entity:

1. Are any legal proceedings alleging violations of law in connection with an offering of securities by a public entity pending against the Firm, any partner or owner of the Firm or any employee of the Firm (Legal Actions)? Describe each such pending action.
2. Have there been any settlements or judgments involving Legal Actions within the last five years? Describe each such settlement or judgment, including the nature of the action and the amount of recovery.

I. References

Provide the contact name, address and telephone number of five references from governmental agencies for which the Firm has provided services in relation to the issuance of securities within the past three years (contacts can duplicate clients identified in Subsection D., Item 6. above).

J. Insurance

Describe the Firm's level of malpractice insurance and provide the name of the insurer and the scope of coverage. Submit a self-certification describing the amount of coverage and confirming that the coverage includes securities transactions, or a copy of the certificate of insurance reflecting malpractice insurance and that the coverage includes securities transactions.

K. Additional Information

Provide any other information the Firm believes is relevant to the I-Bank's selection process (additional information may be attached as an appendix or appendices).

L. Fee Proposal

Compensation for services shall be at the hourly rates agreed upon between the I-Bank and the Firm for the individual attorneys and paralegals providing services, ~~provided that the I-Bank will not pay hourly rates for services in excess of \$575 per hour during the first contract year. Thereafter, the hourly rates may be increased based upon an inflation index if one is proposed by the Firm and to the extent accepted by the I-Bank. Describe the Firm's proposed inflation index in the RFQ proposal.~~

Reimbursement for miscellaneous expenses shall be at the actual costs incurred by the Firm or at reimbursement rates for costs agreed upon between the I-Bank and the Firm, provided that travel expenses shall not be reimbursed at rates beyond those established for State of California employees. Hourly rates will not be paid solely for travel time.

Submit the Firm's proposed hourly rates and miscellaneous expenses in the table format provided below:

Cost for Services	
Staff Title ⁽¹⁾	Hourly Rate
Managing Senior Partner	
Senior Partner	
Partner	
Associate	
Paralegal	
	Describe
Miscellaneous Expenses ⁽²⁾	

⁽¹⁾The listing of staff titles in the table is suggestive. Utilize the titles of the Firm's staff likely to work on this engagement.

⁽²⁾ List and describe miscellaneous expenses expected to be incurred. The I-Bank will not pay for overhead expenses including the following:

- Functions that are secretarial or clerical in nature, including word processing;
- Ordinary surface mail postage;
- Ordinary local and long-distance telephone charges;
- Office supplies and normal office services;
- Ordinary photocopying or printing of e-mailed documents;
- Ordinary fax transmissions or receipts;
- Parking or meals at the Firm's office; and,
- Subscriptions (including but not limited to texts, periodicals and online sources) that are not maintained solely for the purposes of representing the I-Bank.

M. Certification

Select and submit the applicable certification below.

New Proposals

As required in Section IV. – MINIMUM QUALIFICATIONS, Subsection G., the cover letter to the proposal must contain the following certification:

I, the undersigned, am an authorized representative of _____ (Firm), have read and thoroughly understand the specifications, instructions and all other conditions of the Amended and Restated Request For Qualifications for special counsel services issued by the California Infrastructure and Economic Development Bank (I-Bank).

The Firm offers and makes this proposal to furnish the I-Bank special counsel services detailed in this proposal at the prices indicated.

For Previously Submitted Proposals with no Amendments

I, the undersigned, am an authorized representative of _____ (Firm), have read and thoroughly understand the specifications, instructions and all other conditions of the Amended and Restated Request For Qualifications for special counsel services issued by the California Infrastructure and Economic Development Bank (I-Bank).

Our Firm submitted a proposal on or before the previously established deadline of August 5, 2009, and no amendment or change to that proposal is being made. I certify that all of the information provided in the previously submitted proposal is true and correct as of the date hereof, and that no new information is being submitted.

The Firm offers and makes this proposal to furnish the I-Bank special counsel services detailed in proposal at the prices previously indicated.

For Previously Submitted Proposals with Amendments

I, the undersigned, am an authorized representative of _____ (Firm), have read and thoroughly understand the specifications, instructions and all other conditions of the Amended and Restated Request For Qualifications for special counsel services issued by the California Infrastructure and Economic Development Bank (I-Bank).

Our Firm submitted a proposal on or before the previously established deadline of August 5, 2009, and the Firm is amending its previous proposal by submitting the enclosed information and attachments. I certify all of the information provided in the previously submitted proposal along with the information submitted to the I-Bank herein is true and correct as of the date hereof and represents our Firm's amended proposal as of the date hereof.

The Firm offers and makes this proposal to furnish the I-Bank special counsel services at the prices [indicated in the previously submitted proposal] OR [indicated in the enclosed amendment].

N. Pro Bono Legal Services

The I-Bank selection committee has concluded that it is likely that one or more of the special counsel contracts awarded will be in an amount that exceeds \$50,000. As a result, the “pro bono legal services” requirements of Business and Professions Code section 6072 (Section 6072) may apply to one or more of the contracts awarded pursuant to this Request for Qualifications. To comply with Section 6072, we are requesting each responding firm provide us with the following information:

1. The number of hours and type of pro bono legal services (as that term is defined in Section 6072, and not as may be otherwise understood) provided by the Firm within the 12-month period prior to August 31, 2009.
2. A certification from the Firm regarding its willingness to put forth a good faith effort to provide the minimum number of hours of pro bono legal services set forth in Section 6072 during each year of the contract, assuming that the contract will be in the amount of \$75,000.

N.O. Method of Submission of Proposal.

Proposals submitted in response to this RFQ shall be submitted by **e-mail only** and must be provided in a PDF format. Proposals will be accepted until 3:00 p.m. (Pacific Daylight Time) on ~~August 5~~ September 21, 2009, at the following e-mail address: ibank@ibank.ca.gov.

Please call Debra Otto at (916) 323-9570 if the contact person identified in the proposal does not receive an e-mail confirming the I-Bank's receipt of the proposal. Firms that do not receive confirmations from the I-Bank accept the risk that its proposal has not been received. Any proposal not received on a timely basis will not be considered.

VIII. RULES AND CONDITIONS

- A. The I-Bank is not responsible for any expense incurred in preparing and submitting a response to this RFQ or taking any action in connection with the selection process, or for the costs of any services performed by any Firm prior to the execution of a contract with the I-Bank.
- B. All materials submitted in response to this RFQ become property of the I-Bank and will not be returned. The materials will be a public record subject to disclosure under the California Public Records Act (Government Code Section 6250, et seq.).

- C. The I-Bank retains the discretion to decide not to utilize the services of any selected Firm or to terminate the selection without cause and without penalty, and selection of a Firm does not assure that any services will ultimately be requested.
- D. The I-Bank reserves the right to modify and/or suspend any and all aspects of this RFQ, obtain further information from any Firm responding to this RFQ, waive any defect as to form or content of this RFQ or any response thereto, and reject any and all responses to this RFQ.
- E. Each Firm responding to this RFQ shall, by submitting a response, waive any claim or right of action against the I-Bank by reason of any aspect of this RFQ process, including but not limited to the following: defects or abnormalities contained herein; defects or abnormalities in the selection process; the rejection of any proposal; the acceptance of any proposal; any statements, representation, acts or omissions of the I-Bank; the exercise of any I-Bank discretion set forth in or with respect to any of the foregoing; and, any and all other matters arising out of all or any of the foregoing.
- F. Oral communications with I-Bank officers and employees shall be non-binding on the I-Bank and shall in no way exempt the applicant from obligations as set forth in this RFQ.
- G. The I-Bank reserves the right to select Firms that will best meet the I-Bank's needs, regardless of differences in fees and expenses among responders to this RFQ. The I-Bank retains the right to waive irregularities in any response.

IX. RFQ SELECTION PROCESS

A selection committee made up of I-Bank staff will review and score all responses to this RFQ received by the deadline. Those responses complying with Section IV. – MINIMUM QUALIFICATIONS of this RFQ will be evaluated based on the following criteria:

- A. Firm's Qualifications and Experience. The quality and depth of the Firm's staff expertise, capability and prior experience in providing the services identified in this RFQ including, but not limited to, past performance with respect to such services of comparable magnitude and complexity in California. Client references may be contacted to further understand the Firm's qualifications, experience and performance.
- B. Competitiveness of proposed fees.
- C. Overall quality of the written response to this RFQ.

Oral interviews may be scheduled by phone and the notice of the interview schedule, if any, will be provided to the primary contact designated by the Firm.

ATTACHMENT A
AGREEMENT GENERAL TERMS AND CONDITIONS

1. CONTRACTOR STATUS; SUBCONTRACTORS AND EMPLOYEES OF CONTRACTOR:

- a. Contractor will be at all times an independent contractor and not an agent or employee of the I-Bank.
- b. Any and all personnel retained, hired, engaged, or provided by Contractor will be independent contractors for, or employees of, Contractor and not employees of I-Bank for any purpose whatsoever. All such personnel will be under Contractor's exclusive supervision, direction, and control, and will be compensated by Contractor in Contractor's name and at its expense.

2. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. Contractor acknowledges that the I-Bank will be verifying that the Contractor is currently qualified to do business in California, and that "doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a contractor performing within the state not be subject to the franchise tax.
- b. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Contractor acknowledges that the I-Bank will determine whether Contractor, if Contractor is a corporation or other entity requiring registration with the Secretary of State, is in good standing by contacting the Office of the Secretary of State.

3. AUDIT: Contractor agrees that the I-Bank, the Department of General Services, the Bureau of State Audits, or their designated representatives, and any representative of the Internal Revenue Service auditing bonds for which services were provided to the I-Bank, shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for a minimum of seven (7) years after the retirement of the bonds for which services were provided. Contractor agrees to allow access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

4. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title

2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

5. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 1. the dangers of drug abuse in the workplace;
 2. the Contractor's policy of maintaining a drug-free workplace;
 3. any available counseling, rehabilitation and employee assistance programs; and,
 4. penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 1. receive a copy of the Contractor's drug-free workplace policy statement; and,
 2. agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State of California agreements if the ~~department~~ I-Bank determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

6. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
7. DOMESTIC PARTNERS: Contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

8. CHILD SUPPORT COMPLIANCE ACT: Contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
9. AMERICANS WITH DISABILITIES ACT: Contractor assures the I-Bank that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
10. CONFLICT OF INTEREST: Contractor has been informed of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, Contractor shall contact the I-Bank immediately for clarification.

For Current State of California Employees (Pub. Contract Code §10410):

- a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

For Former State of California Employees (Pub. Contract Code §10411):

- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of this Paragraph 11, such action by Contractor shall render this Agreement void. (Public Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Public Contract Code §10430 (e))

11. COPYRIGHT VIOLATIONS In accordance with Executive Order D-10-99 issued by the Governor of the State of California, Contractor certifies that it has appropriate systems and controls in place to ensure that I-Bank funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violations of copyright laws.
12. CONFIDENTIALITY OF DATA
 - a. All financial, statistical, personal, technical, and operational information, including all non-public information of a customer of I-Bank, and non-public technical and other data and information relating to I-Bank's operation, which are made or become available to Contractor in carrying out this Agreement, shall be protected by Contractor from unauthorized use and disclosure. Contractor will take all reasonable measures, including without limitation such measures as it takes to safeguard its own confidential information, to ensure the security and confidentiality of all information provided to it by I-Bank, to protect against all threats or hazards to the security or integrity of the information, and to protect against unauthorized access to or use of the information. Should Contractor experience a breach of the security of any system it maintains to protect data provided by I-Bank or affecting any of I-Bank's operations or customers, or should any unauthorized release of confidential information occur, Contractor will take all steps necessary to provide notice to I-Bank and all interested parties, correct the cause of said breach and take any and all actions I-Bank deems necessary or appropriate.
 - b. I-Bank reserves the right to require Contractor, and any employees or contractors of Contractor who may have access to any information provided by I-Bank, to sign a confidentiality agreement.
13. PERFORMANCE REVIEW Contractor agrees that the I-Bank shall have the right to review, obtain and copy all records pertaining to the performance of this Agreement. Contractor agrees to provide the I-Bank with any relevant information requested. Contractor further agrees to maintain such records for a period of six years following the later of the final payment on the bonds in connection to which services are provided, or any bonds refunding such bonds.
14. WORK PRODUCT All notes, records, reports, summaries and other data provided to Contractor or generated by Contractor in connection with the services performed under this Agreement is the property of the I-Bank. Contractor agrees it will not use any notes, records, reports, summaries or other ~~data~~ data received or generated by Contractor in connection with the services performed under this Agreement in any way that could or would result in such information being disclosed, inadvertently or otherwise, to any party other than the I-Bank without the I-Bank's prior written consent.
15. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. This Agreement supersedes any and all other agreements, oral or in writing, between the parties hereto with respect to the subject

matter hereof and contains all of the covenants and agreements between the parties with respect to said matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied or referred to herein, and that no other agreement, statement, or promise not contained or referred to in this Agreement shall be valid and binding. This Agreement is entire as to all of the performance to be rendered under it.

16. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the I-Bank in the form of a formal written amendment.
17. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the I-Bank, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, and any other person, firm or corporation furnishing or supplying services in connection with the performance of this Agreement, and from any and all claims and losses (not including investment losses) accruing or resulting from Contractor's performance of this Agreement.
18. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue for any action brought hereunder shall be exclusively in the County of Sacramento.
19. PARTIAL INVALIDITY If any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.
20. CALIFORNIA PUBLIC RECORDS ACT Contractor acknowledges that, except to the extent that information may be exempt from public disclosure under California Health & Safety Code Section 51615, the California Public Records Act (California Government Code Section 6250, et seq.), or otherwise exempt from disclosure, information possessed by the I-Bank could be subject to disclosure under California law. The I-Bank, its directors, officers, agents, employees and advisors will not be in breach of this agreement as a result of any public disclosure required by California law.
21. GOVERNING LAW The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue for any action brought hereunder shall be exclusively in the County of Sacramento.
22. TERMINATION: The I-Bank reserves the right to cancel this Agreement without cause with thirty (30) days written notice to the Contractor.
23. AUTHORITY Each person signing this Agreement on behalf of a party represents and warrants that he or she has the full right, power, legal capacity and authority to sign this Agreement on behalf such party and that this Agreement shall be binding on that party without the approval of any other person or entity.